

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the 20th day of December, 2005:

<u>Present</u>	<u>Vote</u>
James S. Burgett, Chairman	Yea
Walter C. Zaremba, Vice-Chairman	Yea
Sheila S. Noll	Yea
Kenneth L. Bowman	Yea
Thomas G. Shepperd, Jr.	Yea

On motion of Mrs. Noll, which carried 5.0, the following resolution was adopted:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET OF FLOOR AREA ON PROPERTY LOCATED AT 165 AND 175 WATER COUNTRY PARKWAY

WHEREAS, Premier Properties USA, Inc., has submitted Application No. UP-686-05, which requests a special use permit, pursuant to Section 24.1-466(g) of the York County Zoning Ordinance, to authorize a retail center of more than 80,000 square feet of gross floor area on property located at 165 Water Country Parkway (Route 640) and a portion of 175 Water Country Parkway, and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 20th day of December, 2005, that Application No. UP-686-05 be, and it is hereby, approved to authorize a retail center of more than 80,000 square feet of gross floor area on property located at 165 Water Country Parkway (Route 640) and a portion

of 175 Water Country Parkway, and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3, subject to the following conditions:

1. This use permit shall authorize a retail center of more than 80,000 square feet of gross floor area located at 165 Water Country Parkway (Route 640) and a portion of 175 Water Country Parkway and further identified as Assessor's Parcel Nos.11-91 and a portion of 11-4-3. This use permit shall be applicable only to that area identified as "Phase I" on Sheet C2.0 of the plans referenced in Condition #2 below.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any construction activities on the subject parcel. Except as modified herein, said site plan shall be in substantial conformance with the plans titled "The Marquis, York County, Virginia," S.U.P. Re-submittal, Sheets C.01, C1.1, C1.2, C1.3, C3.1 and C3.2, prepared by Landform, dated September 30, 2005 and received by the Planning Division October 3, 2005, and Sheets 2.0, 2.1 and 2.2, received on October 10, 2005, and "Typical Main Street Cross Section, the Marquis," prepared by JPRA Architects, dated September 30, 2005, and received by the Planning Division on October 3, 2005. Building elevations shall be in general conformance with the renderings and photographs titled "Design Review Committee References", dated December 20, 2005, and made a part of this approval by reference. All building construction shall be subject to the design review and approval process set forth herein. For the purposes of this Special Use Permit authorization, the maximum total amount of floor area in the subject phase of the project shall be 800,000 square feet.
3. Prior to site plan approval, the applicant shall secure any permits or approvals required under Chapter 23.2, Chesapeake Bay Preservation Areas, of the County Code, and any permits or approvals required from the Army Corps of Engineers for development impacting wetlands.
4. All signage on the property shall be in conformance with Article VII of the Zoning Ordinance. Freestanding identification signage for the overall project shall be limited to a single monument sign for each individual public street frontage bordering the property (Interstate 64, including the exit ramp; Route 199; Water Country Parkway, extended) and shall be in substantial conformance with the monument sign elevation titled "Freestanding/Monument, The Marquis," Sheet 3, prepared by JPRA Architects, dated September 30, 2005, and received by the Planning Division on October 3, 2005. Freestanding identification signs for any separate outparcels shall be permitted in accordance with the terms of Article VII. Internal freestanding directional signage shall conform to Zoning Ordinance Section 24.1-707(r).
5. Pedestrian access and parking lot landscape dividers shall be located as depicted on the plan sheet labeled "Staff amendments," Sheet C2.2 and dated October 10,

2005, a copy of which is included in this resolution by reference. The ultimate site design shall also include any additional pedestrian ways and/or landscape dividers as may be deemed required in the course of final site plan review. The pedestrian access way labeled "major pedestrian access way" shall be designed as a minimum 15-foot wide landscape island containing a minimum 5-foot wide sidewalk adjacent to a minimum 10-foot wide landscaped area. All other delineated pedestrian access ways shall be designed as minimum 10-foot wide islands containing minimum 4-foot wide sidewalks adjacent to minimum 6-foot wide landscaped areas.

6. Prior to application for site plan approval, a design review committee, formed and governed by the document entitled "Design Review Committee Structure" dated November 2, 2005, and made a part of this resolution by reference, shall be established for the review and approval of proposed building and signage plans. Site and building plans shall conform to the Design Guidelines section of this document and such other standards as are established herein.
7. Access to the proposed development shall be as generally depicted on the conceptual plans referenced in Condition #2 above, and including any modifications as required by the Virginia Department of Transportation (VDOT). Such access arrangements from Route 199 and the proposed connections with the Grove Interchange ramp system of Interstate 64 shall be subject to review and approval by the Virginia Department of Transportation and by the Federal Highway Administration (FHWA) in accordance with such procedures and requirements as those agencies determine appropriate. The adequacy of the proposed traffic network shall be documented and analyzed in a Traffic Impact Study prepared in accordance with all applicable standards for such studies and approved by VDOT and FHWA where applicable as required by statute. The Traffic Impact Study shall document the improvements necessary to serve the needs of the proposed development and to yield a minimum Level of Service of C. Where the existing conditions provide a current Level of Service of less than C, the improvements shall be designed to at least maintain the current volume to capacity ratio without further degradation through the design year, plus two years. The improvements necessary to accommodate the traffic impacts of the proposed development shall be the responsibility of the applicant. In the event transportation system improvements cannot be designed to accommodate the proposed amount of retail development and achieve the LOS standard, then the size (floor area) of the proposed commercial space shall be reduced accordingly from that depicted on the Concept Plan.

The alignment and design of the proposed main access road, which is depicted on the Concept Plan as a "New State Road," shall be approved by the Virginia Department of Transportation and, in the event of a connection to the Interstate 64 ramp system, the Federal Highway Administration. The road shall be designed as a limited access facility with no breaks on its north side other than a possible service/employee access connection to Water Country USA, and a possible pull-off/parking area to provide access to any interpretive area established in conjunction with the historic/archaeological resources to be preserved, both subject to VDOT's review and approval. Access breaks (entrances into the proposed devel-

opment) on the south side shall be as generally depicted on the referenced concept plans, shall not exceed a total of five (5) for this phase of the project, and shall be subject to review and approval by VDOT as to such design, geometrics and traffic control/signalization standards as it deems appropriate.

In the event the connection to the Interstate 64 ramp system is not approved by VDOT and/or the Federal Highway Administration, or is still under review at the time the applicant wishes to commence detailed design and engineering work for the Phase I development, the applicant shall be responsible for demonstrating the adequacy of the Route 199 access point to serve as the sole access to the proposed Phase I development. Such documentation shall be provided through the submission and approval, by VDOT, of a traffic impact analysis (which may be a subsection of the overall project Traffic Impact Study referenced above). In addition, the applicant shall be responsible for securing a commitment from VDOT that the Phase I main access road will be eligible, upon completion, for acceptance by the Virginia Department of Transportation. In the event the Phase I main access road will not be eligible for acceptance by VDOT, it shall be considered a private road/commercial access and all future maintenance responsibility shall rest with the applicant/developer.

The referenced Traffic Impact Studies shall accompany the first site plan submission for the proposed development. Site Plan approval shall be contingent upon approval of the Traffic Impact Study by VDOT and, as necessary, the Federal Highway Administration. No Land Disturbing Activity Permits shall be issued for the proposed development unless the Traffic Impact Study and roadway design has been approved. In the event the authorized project is to be constructed in phases and will involve multiple site plan submissions, the initially submitted traffic study may include recommendations for a phased approach to constructing the transportation infrastructure.

8. Except as noted herein, preservation of historic resources on the property shall be fulfilled in accordance with the applicant's historical resources summary received by the Planning Division on October 3, 2005, which is included in this resolution by reference.

Prior to any clearing or grading activities in the area of historical resources site Nos. 394, 396, or 1026 as identified in the report "Phase II Archaeological Significance Evaluation of Sites 44YO0394, 44YO0395, 44YO0396, and 44YO1026 at the Whittaker's Mill Tract in York County, Virginia," prepared by James River Institute for Archaeology, Inc., dated August 2005 and received by the Planning Division on September 1, 2005, and as noted as "area to undergo Phase III investigation" on Sheet C1.2 referenced in condition # 2 above, a Phase III archaeology study shall be conducted in accordance with Virginia Department of Historical Resources (VDHR) guidelines. This shall include full recovery, documentation and archiving of all found historical artifacts on the site. Artifacts shall be archived at an antiquities repository facility constructed in accordance with applicable VDHR curation guidelines (36CFR, part 79), and shall be available to the pub-

lic for educational and research purposes. In coordination with the County and VDHR, the applicant shall initiate application to the VDHR for nomination of preserved eligible sites to the National Register of Historic Places.

There shall be no disturbance of the gun emplacement/redoubt located within site No. 394 as identified in the above-referenced Phase II archaeological report, and a 50-foot undisturbed buffer shall be maintained surrounding the feature. Said buffer shall be delineated on approved site and grading plans, and shall be clearly demarcated on-site prior to clearing or grading activities in its vicinity. The Zoning Administrator may approve a decrease in the buffer provided engineered site plans and further field testing adequately demonstrate that the feature will be completely protected from grading, soil erosion, or other land disturbing activities. The Zoning Administrator shall consult with VDHR as to the adequacy of the plans and field testing procedures. In no case shall the buffer be decreased to less than 20 feet.

Prior to any land disturbing activities on the site, an easement shall be established for the perpetual preservation of historical sites over the area so referenced on plan Sheet C1.2. The easement area shall also include the undisturbed buffer associated with the gun emplacement/redoubt area referenced above. Said easement shall be granted to the County or other public or non-profit organization dedicated to the discipline of historic preservation and associated public education, and shall contain provisions for the maintenance and protection of historic sites and interpretive facilities as referenced herein.

No later than at time of completion of the proposed state road within the Phase I portion of the subject site, the applicant shall be responsible for the construction of a wayside vehicular pull-off area in the area of site Nos. 394/395, as identified in the above-referenced Phase II archaeological report. Such pull-off shall be subject to the approval of VDOT and shall include a parking area, pedestrian path, and interpretive signage for the purpose of displaying interpretive/educational information including, but not limited to, photographs and text describing the artifacts and the associated history of the site. The applicant shall also be responsible for development and installation of relevant interpretive/educational signage to be placed on or near the buildings to be built over site No. 396. The County, in coordination and cooperation with VDOT and VDHR shall approve the proposed number, size, location, design, and materials of the signs, parking area, and pedestrian path.


9. Free standing and building lighting shall be full cut-off fixtures that are shielded and directed downward and level to the ground to prevent off-site illumination. The maximum height for on-site light fixture poles shall be as follows:

Pedestrian Walks and Plazas:	18 feet
Internal Streets and Drives:	25 feet
Parking Areas:	30 feet

Freestanding signage shall be internally lit, except where exterior lighting is directed downward and fully shielded. Illumination levels shall not exceed 0.5-foot candle at any exterior property line. Neon lighting exposed or contained within non-opaque fixtures shall not be permitted for signage or for building or other structure accents. All lighting schemes and lighting fixtures shall be consistent with the lighting recommended by the Illumination Engineering Society of North America (IESNA). Acceptable light sources shall include incandescent and metal halide lamps, and should produce a color temperature close to daylight. Other sources may be approved by the Design Review Committee; however, mercury vapor sources are not permitted.

10. A 45-foot wide undisturbed landscape buffer shall be maintained abutting the western border of the property adjacent to the Route 199 and I-64 rights-of-way, including the interstate exit ramp.
11. Outdoor storage of retail goods or other materials shall not be permitted.
12. Rooftop HVAC, electrical and similar utilities shall be screened from view of any street right-of-way, circulation drive, parking area or pedestrian way.
13. Calculation of minimum required parking spaces shall be exclusive of spaces utilized for cart storage uses. Parking areas that are located along public right-of-way frontages shall be appropriately screened/buffered from view using fencing, walls (maximum 42 inches in height), or hedges.
14. In accordance with the provisions of Section 24.1-115(d) of the Zoning Ordinance, significant modifications to this approval as determined by the Zoning Administrator shall require that a new use permit application be submitted for review. Modifications can be administratively approved if the Zoning Administrator determines the modification to be minor.
15. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded prior to application for site plan approval at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

A Copy Teste:


Mary Ellen Simmons
Deputy Clerk